

REMARKS/ARGUMENTS

Favorable reconsideration of this application in view of above amendments and following discussion is respectfully requested.

Claims 1-67 are pending in this application. Claims 5-7, 14, 16-18, 21-22, 24-28, 31-33, 36, 38, 40-45, 47, 49-53 and 55-59 are withdrawn from consideration. By this Amendment, Claims 1, 34 and 67 are amended; and no claims are added or canceled herewith. It is respectfully submitted that no new matter is added by this Amendment.

In the outstanding Office Action, Claims 1-4, 8-10, 13, 19, 29, 30, 34, 35, 37, 46, 48, 54, and 60-65 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,665,901 to Spector; Claims 1-4, 8, 9, 10, 12, 13, 19, 20, 29, 30, 34, 35, 37, 46, 48, 54, and 61-66 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 1,947,720 to Laub in view of U.S. Patent No. 4,145,147 to Schuck; Claims 15, 23, and 39 were rejected under 35 U.S.C. § 103(a) as unpatentable over Laub in view of Schuck and further in view of U.S. Patent No. 3,070,102 to McDonald; Claims 11 and 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over Spector; Claims 15, 23, 39 and 67 were rejected under 35 U.S.C. § 103(a) as unpatentable over Spector in view of McDonald; and Claim 60 was indicated as including allowable subject matter.

With respect to the rejection of the claims under 35 U.S.C. § 102(b), Spector does not teach or suggest an applicator portion permeable to a product, the applicator portion having a first surface to engage a portion of a body during use and a second surface secured to a second side of a reservoir located immediately adjacent the second surface of the applicator portion, with the second surface of the applicator portion and the second side of the reservoir being in contact with each other along substantially all their respective lengths, as recited in Claim 1 and similarly recited in the remaining independent claims.

Instead, Spector discloses a periodontal finger applicator that includes a collapsible thimble 10 which fits on the index finger of the user and is attached to an envelope 13. The envelope 13 defines a cavity 14 for the aqueous solution, an internal cavity 16 that holds dry powder, and a rectangular layer 17 made of sponge-like material. The cavity 14 filled with the aqueous solution is formed adjacent the finger and the internal cavity 16 is formed between the cavity 14 and the application layer 17 as best shown in Figure 1. A front wall of envelope 13 includes a weakened zone 15 located between the aqueous solution cavity 14 and dry powder cavity 16.

Accordingly, there is no teaching or suggestion for the features recited in the independent claims. Again, the independent claims recite that the second surface of the applicator portion and the second side of the reservoir are in contact with each other along substantially all their respective lengths. As such, during use, the stored product can move reliably from the reservoir immediately to the applicator portion and then be applied to a desired surface. In contrast, Spector discloses that a second surface of the applicator portion 17 is formed adjacent the internal cavity 16 and only appears to contact the cavity 14 at a very end portion.

With respect to the rejection of the claims under 35 U.S.C. § 103(a), Laub discloses a toothbrush having a container 10 formed with sidewalls having ribs 16 and 17 to secure a finger holder 18. A paste 12 is contained within a hollow portion of the container 10. When it is desired to extrude the paste through the slot formed in the housing 10, the upper wall of the container is depressed in the membrane 29 is fractured to allow the paste 12 into the area of bristles 25. That is, when the membrane is broken, the openings in Laub are located in an area between the bristles 25, which is remote from the applicator portion.

Schuck discloses a toothbrush having a cavity 106 for housing toothpaste. The cavity 106 communicates with channel 105 which then dispenses the toothpaste to the bristle

portion 104 of the brush. Schuck also discusses using sponge material 120. In operation, a screw and piston device operated by the user, forces the toothpaste out of the cavity and into the bristle or sponge area.

Accordingly, the features of the claimed invention discussed above are not taught or suggested by the teachings in either Laub or Schuck. In particular, the applied art does not teach or suggest that a second surface of an applicator portion and a second side of a reservoir have respective lengths that are in contact with each other along substantially all their length. Further, it is respectfully submitted that there is no basis in the teachings of either Laub or Schuck to support their applied combination. Certainly, the outstanding Office Action fails to cite to any specific teachings within either reference to support the applied combination. Again, Laub is concerned with the dispensing of toothpaste between bristles 25 which is remote from the applicator portion. Schuck is directed to the dispensing of toothpaste with a piston and screw device through a channel. The dispensing outlet for channel 105 is small compared to the second surface of the applicator portion. It is respectfully submitted that the combination of Laub with Schuck is the result of hindsight reconstruction in view of the teachings of the present specification, and is improper.

Accordingly, withdrawal of the rejection of the claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) is respectfully requested.

Consequently, for the reasons discussed in detail above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Steven P. Weihrouch
Attorney of Record
Registration No. 32,829

Kevin M. McKinley
Registration No. 43,794

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

SPW:KMM\la

I:\ATTY\KMM\PROSECUTION WORK\239209\5-23-07 AMENDMENT.DOC